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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)

1998 Annual Access Tariff Filings)

CC Docket No. 98-104

AT&T COMMENTS ON LEC DIRECT CASES

Pursuant to the Commission's Designation Order, AT&T submits these comments on the Direct Cases filed August 31, 1998 by Southwestern Bell Telephone Company ("SWBT"), Nevada Bell, and The Southern New England Telephone Company ("SNET").¹ As demonstrated below, SWBT and SNET must both take corrective actions to properly compute their common line rates.

INTRODUCTION

The Access Reform Order significantly shifts the recovery of common line revenues between per-minute and flat charges and between interexchange carriers ("IXCs") and end users.² Among other mechanisms, it does so by making a distinction between primary and nonprimary residential

¹ 1998 Annual Access Tariff Filings, CC Docket No. 98-104, Memorandum Opinion and Order, Order Designating Issues for Investigation, and Order on Reconsideration, DA 98-1512, released July 29, 1998 ("Designation Order").

² Access Charge Reform, CC Docket No. 96-262, First Report and Order, FCC 97-158, released May 16, 1997, paras. 53-60 ("Access Reform Order").

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lines, and by establishing a flat-rate primary interexchange carrier charge ("PICC") for recovery of common line costs from IXC's before imposition of per-minute charges.

Nonprimary residential lines have higher end user common line charge ("EUCL") and PICC rate caps than primary residential lines.³ Accordingly, to the extent that a LEC understates its nonprimary residential line counts, it reduces the amount of revenues recovered from end users via EUCLs (and from IXC's via the PICC) and improperly increases the amount of revenues recovered from IXC's via the per-minute carrier common line charge ("CCLC").⁴

Although the Access Reform Order did not provide a definition of primary and nonprimary line, the Commission designated for investigation the line counts for all price cap LEC's in their January 1, 1998 tariffs.⁵ In their July 1, 1998 annual access tariff filings, a number of price cap LEC's reported substantial increases in nonprimary residential line penetration ratios using the service

³ Access Reform Order, paras. 58-59 and 78. The Access Reform Order (*id.*) also increases the EUCL rate cap for multiline business lines and established a higher PICC rate cap for those lines than for single-line business lines.

⁴ Tariffs Implementing Access Charge Reform, CC Docket No. 97-250, Memorandum Opinion and Order, FCC 98-106, released June 1, 1998, paras. 9 and 13 ("June 1 Order").

⁵ Designation Order, para. 7, citing Tariffs Implementing Access Charge Reform, Order Designating Issues for Investigation and Order on Reconsideration, CC Docket No. 97-250, 13 FCC Rcd 2249, 2255 (1998).

location definition.⁶ Most LECs adopted a definition of primary lines based on service location to be effective by January 1, 1999.

In their 1998 annual access tariff filings, SWBT, Nevada Bell, and SNET, however, understated their nonprimary line counts or miscomputed their rates, resulting in suspension of their tariffs and this investigation.⁷ The Commission designated for investigation whether SNET filed reasonable nonprimary line counts and whether SWBT and Nevada Bell properly adjusted their tariff filings to incorporate their amended nonprimary line counts.⁸

In the Designation Order, the Commission requested comment "on the tentative conclusion that SWBT and Nevada Bell have failed to properly adjust their revenue inputs due to a change in their primary and non-primary residential line counts."⁹ The Commission also sought comment on its tentative conclusion that SNET has under-represented the number of nonprimary residential lines

⁶ Designation Order, paras. 9 and 13.

⁷ 1998 Annual Access Tariff Filings, CC Docket No. 98-104, Memorandum Opinion and Order, DA 98-1294, released June 29, 1998, para. 10 ("Suspension Order").

⁸ Designation Order, para. 2.

⁹ Designation Order, para. 20.

for the purpose of assessing EUCLs and PICCs and calculating the CCL.¹⁰

I. SWBT HAS IMPROPERLY INCREASED ITS COMMON LINE REVENUES FOR THE 1998 TARIFF YEAR BY UNJUSTIFIABLY REFUSING TO FOLLOW THE REQUIREMENTS OF THE DESIGNATION ORDER.

On August 13, 1998, SWBT filed Transmittal No. 2719 and Nevada Bell filed Transmittal No. 250 to incorporate revised nonprimary residential and BRI ISDN EUCL rates at last price cap index ("PCI") update. These transmittals were filed in response to the Designation Order which stated that in order "[t]o ensure that the maximum allowable common line revenues remains unchanged, the relevant rate inputs must be recalculated using a weighted average of the increased nonprimary lines and decreased primary lines."¹¹ However, in SWBT's Transmittal No. 2719 and Nevada Bell's Transmittal No. 250, not all relevant rate inputs were recalculated using the FCC-specified weighted average methodology.¹² As a result, SWBT's and Nevada Bell's common line revenues changed, contrary to the Commission's requirements.¹³

¹⁰ Id., para. 15.

¹¹ Id., para. 20 (emphasis added).

¹² Id., para. 20.

¹³ SWBT Transmittal No. 2719, filed August 13, 1998, CAP-1 form, line 610, "Maximum Revenues at last PCI update" shows \$1,044 million. SWBT Transmittal No. 2708, filed June 30, 1998, CAP-1 form, line 610, "Maximum Revenues

In its Direct Case (at 2), SWBT refers to its Reply Comments responding to the petitions filed by AT&T and MCI against SWBT Transmittal No. 2719 and Nevada Bell Transmittal No. 250.¹⁴ In its Reply Comments (at 3), SWBT states its shifting of additional lines from primary to nonprimary ". . . included both reclassifications as well as line growth. . . ." SWBT suggests (*id.*) that because part of its change in line counts is attributable to growth, it should not be required to comply in full with the Commission's weighted average methodology.

Essentially, SWBT contends (*id.*) that performing the weighted average methodology on the EUCL nonprimary rate at last PCI update is sufficient, and it is not necessary to perform the weighted average methodology on the PICC nonprimary rate at last PCI update. By contrast, in the same Reply Comments (at 3), Nevada Bell (SWBT's sister LEC) concedes that because its line count changes can all be

(footnote continued on following page)

at last PCI update" shows \$1,039 million. As explained in AT&T's Petition To Reject Or Suspend And Investigate SWBT Transmittal No. 2719, filed August 20, 1998 ("AT&T Petition"), this difference is a result of the fact that SWBT did not perform the weighted average methodology on the PICC nonprimary residential and BRI ISDN rate at last PCI update. The PICC nonprimary rate at last PCI update is also a "relevant rate input" for calculating the maximum allowable common line revenues and ensuring that they remain unchanged.

¹⁴ Reply Comments of SBC Communications Inc., filed August 24, 1998 ("Reply Comments").

characterized as a reclassification, ". . . both the EUCL and PACC rates at last PCI update should reflect the weighted average at last PCI update."

SWBT's contention that it need not perform a weighted average computation for the PACC is contrary to the requirements of the Designation Order. Moreover, there is no factual basis for SWBT's assertion that this computation is unnecessary because part of its change in line counts is attributable to growth.

SWBT's total residence lines as shown in Transmittal No. 2708 was 124,829,760 (114,010,485 primary and 10,819,275 nonprimary).¹⁵ SWBT's total residence lines in Transmittal No. 2719 was 124,899,260 (109,858,197 primary and 15,041,063 nonprimary).¹⁶ These figures illustrate that although SWBT reclassified approximately 4.2 million lines from primary to nonprimary status, there was essentially no change in the total number of residence lines. The only significant difference in line counts from Transmittal No. 2708 to Transmittal No. 2719 was the reclassification of approximately 4.2 million lines from primary to nonprimary - an increase of 39% in nonprimary lines -- and there was,

¹⁵ Southwestern Bell Telephone Company, Transmittal No. 2708, filed June 30, 1998, RTE-1 form, lines 110 and 111.

¹⁶ Southwestern Bell Telephone Company, Transmittal No. 2719, filed August 13, 1998, RTE-1 form, lines 110 and 111.

at most, de minimis 0.05% growth in residence lines. Because there was essentially no growth in total residence lines, SWBT should be required to perform the weighted average methodology to its PICC nonprimary rate at last PCI update as all price cap LECs were required to do.

In addition, the Designation Order specifically states that reclassification of additional lines from primary to nonprimary "should not change total common line revenues for the 1998 tariff year."¹⁷ As explained in AT&T's Petition, SWBT must perform the Commission's weighted average methodology on its PICC nonprimary rate at last PCI update, just as Nevada Bell has done, in order to keep its common line revenues for the 1998 tariff year unchanged.

II. SNET HAS UNDERSTATED ITS NONPRIMARY LINE COUNTS.

In the Designation Order, the Commission noted that SNET continued to report levels of nonprimary residential line penetration rates much lower than expected.¹⁸ SNET reported a mere 6.88% nonprimary residential line penetration, as compared to the industry

¹⁷ Designation Order, para. 20 (emphasis added).

¹⁸ Id., para. 15.

weighted average of 10.39%¹⁹ and the Commission's own Additional Line Study (1995 data) of 11.88%²⁰ for SNET.

The Commission has relied on the Additional Line Study to determine the reasonableness of the percentage of nonprimary residential lines to total residential lines reported by price cap LECs.²¹ Using a conservative 10% annual growth rate on the 11.88% nonprimary residential Additional Line Study figure, SNET's percentage of nonprimary lines should currently be 10% of the 1997 residential demands using the FCC's conservative 70% factor.²² By classifying only 6.88% (rather than 10%) of residential lines as nonprimary, SNET has understated its

¹⁹ Id., para. 16.

²⁰ June 1 Order, Figure 4.

²¹ Id., paras. 23-27. Pacific Bell reported its nonprimary lines as 2.67% of total residence and GTE reported its nonprimary lines as 4.79%. The Commission required both LECs to increase their nonprimary residential line counts to at least 70% of the Additional Line Study.

²² Id., para. 29. The Commission noted "that it is reasonable to prescribe a non-primary residential line count of no lower than 70 percent of the lines identified by the Additional Line Study because, on average, price cap LECs . . . reported 71.45 percent of the non-primary lines identified by the Additional Line Study. Further, all other price cap LECs for which we have sufficient data report at least 70 percent of the non-primary lines identified by the Additional Line Study for their company. Accordingly, 70 percent closely approximates both the average among the price cap LECs in this investigation (71.45 percent) and the next lowest reporting of non-primary lines among other price cap LECs (72 percent), nearly all of whom are grouped between 77 and 72 percent." Id.

nonprimary line count.²³ As a result, SNET is undercharging EUCLs to residential end user customers and is improperly overcharging IXCs by \$1.3 million annually.²⁴

SNET is currently an industry outlier as compared to other LECS who serve urban areas by reporting low nonprimary residential line demand and, as such, the Commission should require corrective action.²⁵ Requiring SNET to classify 10% of its residential lines as nonprimary will align SNET's nonprimary line count with the Commission's industry wide weighted average figure of 10.39%.²⁶ Although AT&T believes that the 70% factor is lenient, it is reasonable in light of the Commission's actions regarding GTE and Pacific Bell.

In its Direct Case (at 6), SNET asserts that a nonprimary residential line definition based solely on service location would be impossible for SNET to administer because SNET cannot identify which line was installed first. According to AT&T's understanding, a location definition

²³ Calculation: Additional Line Study 11.88% * 1.1^2 (2 years 10%/annual growth) * 70% factor = 10%.

²⁴ Formula: SNET Direct Case Exhibit 1 Consumer demand * (10% reasonable non-primary line count - 6.88% SNET non-primary line count) * (\$1.50 SLC increase + \$0.96 PICC increase).

Calculation: $((16,966,794) * (3.12%) * ($1.5 + $.96)) = \$1,302,235.$

²⁵ Designation Order, paras. 9 and 12.

²⁶ Designation Order, para. 16.

should be easy to implement because telephone company records already identify the first and subsequent line into each service location. In all events, and contrary to SNET's assertion, a service location definition can be implemented without significant difficulty because most LECs are, in fact, moving to a service location definition by January 1, 1999.²⁷ Thus, it is inappropriate for SNET to utilize a nonprimary line definition that does not align with the rest of the industry.

²⁷ Designation Order, paras. 12-13, fns. 20-22.

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CONCLUSION

For the reasons stated above, the Commission should require SNET to increase its nonprimary residential line demands to a reasonable level. In addition, both SWBT and SNET should recompute their common line rates using corrected nonprimary residential line counts and the Commission's weighted average methodology.

Respectfully submitted,

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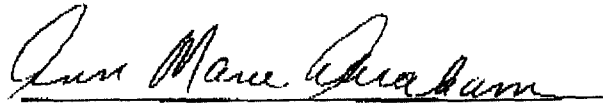
September 15, 1998

CERTIFICATE OF SERVICE

I, Ann Marie Abrahamson, do hereby certify that on this 15th day of September, 1998, a copy of the foregoing "AT&T Comments On LEC Direct Cases" was served by U.S. first class mail, postage prepaid, to the parties listed below.

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